



September 28, 1999

Mr. Devin Benson
Davidson & Troilo
919 Congress, Suite 810
San Antonio, Texas 78701

OR99-2743

Dear Mr. Benson:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 127713.

The Brownsville Public Utilities Board (the "board") received a request for the following:

1. Blue Cross/Blue Shield Proposal
2. Prudential Healthcare Proposal
3. Recommendations from Towers Perrin

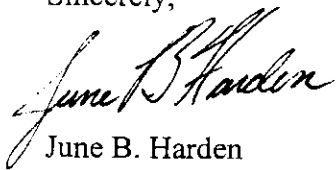
You state that you have released documents responsive to items 2 and 3 of the request. You assert, however, that the Blue Cross and Blue Shield proposal may be protected from disclosure pursuant to section 552.110 of the Government Code. Gov't Code §§ 552.007, .305. You raise no exception to disclosure on behalf of the board, and make no arguments regarding the proprietary nature of the submitted information.

Since the property and privacy rights of a third party may be implicated by the release of the requested information, this office notified Blue Cross and Blue Shield of Texas ("Blue Cross/Blue Shield") of the request. See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Public Information Act in certain circumstances). Blue Cross/Blue Shield responded to our notice by arguing that one of the submitted documents is protected from disclosure by section 552.104 of the Government Code.

Section 552.104 excepts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." The purpose of section 552.104 is to protect the interests of a *governmental body* by preventing one competitor or bidder from gaining an unfair advantage over others in the context of a pending competitive bidding process. Open Records Decision No. 541 (1990). Section 552.104 does not, however, protect the interests of private parties that submit information to a governmental body. *Id.* at 8-9. As the board does not raise section 552.104, this section is not applicable to the requested information. *Id.* (Gov't Code § 552.104 may be waived by governmental body). Consequently, the Blue Cross/Blue Shield proposal must be released in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 127713

Encl. Submitted documents

cc: Ms. Terri Sandate
Cavazos Insurance
315 Parades Line Road
Brownsville, Texas 78521
(w/o enclosures)

Mr. George Hamilton
Senior Attorney
Blue Cross Blue Shield of Texas
1201 South Sherman, Suite 200
Richardson, Texas 75081
(w/o enclosures)